

May 05, 2004- Sanchez Calls on Subcommittee to Update Military Rape Laws

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WASHINGTON--Congresswoman Loretta Sanchez offered an amendment in the House Total Force Subcommittee today that would replace the outdated sexual abuse statute currently being used by the military as part of the Uniformed Code of Military Justice. The amendment was voted down by the Subcommittee by an 8-6 vote, but Chairman McHugh will include language in the final mark-up that requires the Department of Defense to review the Sanchez Amendment over the next year.

"The Defense Department has been reviewing this law for the last 10 months. They have yet to offer a reasonable rationale as to why this change would create a problem," said Sanchez. "This is a reasonable and, frankly, a conservative approach to updating this law. We can't afford to continue to keep our soldiers unprotected from sexual predators, particularly when we are calling on them to make such incredible sacrifices to keep us safe."

During the hearing, the Congresswoman made the following statement:

"Thank you, Mr. Chairman. I have an amendment to repeal Article 120 of the Uniformed Code of Military Justice (UCMJ) and replace it with an improved sexual abuse statute patterned on 18 U.S.C.

"I would find it difficult for anyone on this committee to dispute that we are facing a sexual assault crisis within our Armed Services. Our women and MEN are getting raped in Iraq & the Army is currently investigating more than 110 counts of sexual abuse in Iraq and Afghanistan. Some have attributed this to stress related to combat, but our women are also getting raped in the Pacific. In March of this year, the Air Force reported that it was investigating 92 reports of rapes among the some 40,000 troops stationed throughout the Pacific Rim.

"The problem is real. It is happening NOW. But our current mechanism for prosecuting sexual assault within the Armed Services is woefully outdated. In fact, the current UCMJ provision for prosecuting rape reflects a view of rape prevalent in the 1950's.

"The time has come to adopt a sexual assault statute for the military that is consistent with the U.S. Code and the majority of state sexual assault statutes.

"Most importantly, this bill would help prosecutors, protect victims, and promote good order and discipline in the armed forces.

"This legislation:

1. Offers military prosecutors a clear definition of sexual assault and finer tools for effectively prosecuting sexual offenses.
2. Expands the scope of sex acts that can constitute sexual abuse.
3. Affords increased protection for victims by emphasizing acts of the perpetrator rather than the reaction of the victim during an assault.
4. Criminalizes sexual extortion and other forms of coercing sex from subordinates and fellow service men
5. Expressly provides for cases involving voluntary and involuntary intoxication of the victim, which are common fact patterns in military sexual assault cases.
6. Offers a graduated array of offenses that more precisely define nonconsensual sex crimes. This factor is particularly important.

"For example, the current statute for prosecuting rape is an 'All or Nothing' Statute. In dealing with date rape cases, an 'all or nothing' statute is not what you want. Juries are often reluctant to convict a 'date rapist' of the same offense as a violent rapist who attacks a woman walking down a street. Hence, date rapists are more likely to get off under the current UCMJ statute. This bill would make it easier to prosecute 'date rape' cases.

"Furthermore, the more closely the law mirrors the crime, the easier it is for the jury to make a conviction.

"This bill also has a provision which specifically relates to sexual abuse of a prisoner, unlike the current UCMJ. This provision is particularly timely given the tragic incidents which occurred in Abu Girab prison.

"THE TIME TO DO THIS IS NOW. Our military servicewomen AND men need a positive sign that the United States Congress is committed to tackling the sexual assault crisis within the Armed Services.

"The DoD will tell you that it needs more time to "study" this change. But the fact is, Article 18 is nothing new! It is a tried and true practice that has been in use for 18 years. It is a conservative law, the Congress has already approved it, and it has a myriad of case law to support it.

"Chaired by Judge Walter T. Cox, a former Chief Judge of the U.S. Court of Appeals for the Armed Forces issued a series of recommendations to revise the UCMJ and specifically recommended replacing Article 120 with the Title 18 statutory formula.

"In addition, we have been informed by the DoD that they have been looking at this change since last July! They just need "more time" to look at it.

"I call on my colleagues to join me in supporting this amendment. Thank you, Mr. Chairman."